

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARIA JESUS ANELLO,
Plaintiff,
v.
NANCY A. BERRYHILL,
Defendant.

Case No. [18-cv-00070-DMR](#)

**ORDER CONSTRUING PLAINTIFF'S
SUBMISSION AS MOTION TO SET
ASIDE JUDGMENT**

Re: Dkt. No. 32

Defendant Nancy A. Berryhill filed a motion to dismiss on May 29, 2018. [Docket No. 17.] According to the local court rules, pro se Plaintiff Maria Jesus Anello should have filed any brief in opposition to Defendant's motion by June 12, 2018. *See* Civ. L.R. 7-3(a). No such opposition was filed. On June 26, 2018, the court issued an Order to Show Cause, instructing Ms. Anello to submit a written statement by no later than July 3, 2018 explaining her failure to file an opposition to Defendant's motion to dismiss. [Docket No. 26.] The Order to Show Cause stated that failure to respond by July 3, 2018 could result in dismissal of this action. Ms. Anello, who is an e-filer, did not file a response to the Order to Show Cause. Accordingly, on July 6, 2018, the court dismissed this matter without prejudice for failure to prosecute and entered judgment against Ms. Anello. [Docket Nos. 30, 31.]

Following the entry of judgment, the court learned that Ms. Anello contacted the Court's ECF Helpdesk by email on July 3, 2018, the deadline for her response to the Order to Show Cause, to seek assistance with e-filing her response. Ms. Anello also emailed the undersigned's Courtroom Deputy on July 4, 2018 and represented that she had been unable to determine how to file her response to the Order to Show Cause. According to Ms. Anello, she faxed her three-page response to Defendant's attorney on July 2, 2018. Ms. Anello attached her response to the Order to Show Cause to her email to the Courtroom Deputy, which has been filed at Docket No. 32. In

1 her response, she requests an extension of time in which to submit an opposition to the motion to
2 dismiss.

3 Given Ms. Anello's pro se status, the court construes her response to the Order to Show
4 Cause as a motion to set aside the July 6, 2018 judgment pursuant to Federal Rule of Civil
5 Procedure 60(b). Defendant shall file an opposition or statement of non-opposition to the motion
6 to set aside the judgment by July 13, 2018.

7 The court notes that in her motion for permission for electronic case filing, Ms. Anello
8 affirmed that she had "reviewed the requirements for e-filing and agree[d] to abide by them," and
9 has "regular access to the technical requirements necessary to e-file successfully[.]" [Docket No.
10 21.] As an e-filer, Ms. Anello must familiarize herself with and observe ECF procedures. If she is
11 unable to do so, her status as an e-filer will be revoked.

12 **IT IS SO ORDERED.**

13 Dated: July 10, 2018

